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## PATENT COOPERATION TREATY

PCT

## NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Commissioner  
 US Department of Commerce  
 United States Patent and Trademark  
 Office, PCT  
 2011 South Clark Place Room  
 CP2/5C24  
 Arlington, VA 22202  
 ETATS-UNIS D'AMERIQUE  
 in its capacity as elected Office

|   |   |
|---|---|
| Date of mailing (day/month/year)<br>08 February 2001 (08.02.01)       |   |
| International application No.<br>PCT/US00/17635                       | Applicant's or agent's file reference<br>CM2334/2B        |
| International filing date (day/month/year)<br>27 June 2000 (27.06.00) | Priority date (day/month/year)<br>28 June 1999 (28.06.99) |
| Applicant<br>EVANS, Erica, Louise et al                               |   |

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:

27 December 2000 (27.12.00)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was  
☐ was not

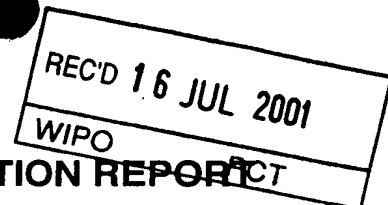
made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

|   |  |
|---|--|
| The International Bureau of WIPO<br>34, chemin des Colombettes<br>1211 Geneva 20, Switzerland<br>Facsimile No.: (41-22) 740.14.35 | Authorized officer<br>S. Mafla<br>Telephone No.: (41-22) 338.83.38 |
|---|--|

# PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



14

|  |  |   |
|--|--|---|
| Applicant's or agent's file reference<br>CM2334/2B                                       |  | <b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |
| International application No.<br>PCT/US00/17635  | International filing date (day/month/year)<br>27/06/2000 | Priority date (day/month/year)<br>28/06/1999  |
| International Patent Classification (IPC) or national classification and IPC<br>A61K7/50 |  |   |
| Applicant<br>THE PROCTER & GAMBLE COMPANY et al.   |  |   |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☒ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

|   |   |
|---|---|
| Date of submission of the demand<br>27/12/2000  | Date of completion of this report<br>12.07.2001   |
| Name and mailing address of the international preliminary examining authority:<br> European Patent Office<br>D-80298 Munich<br>Tel. +49 89 2399 - 0 Tx: 523656 epmu d<br>Fax: +49 89 2399 - 4465 | Authorized officer<br>Hillebrecht, D<br>Telephone No. +49 89 2399 8168<br> |

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/US00/17635

## I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, pages:**

1-38 as originally filed

**Claims, No.:**

1-10 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/US00/17635

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

|                               |                  |
|-------------------------------|------------------|
| Novelty (N)                   | Yes: Claims 2-10 |
|                               | No: Claims 1     |
| Inventive step (IS)           | Yes: Claims      |
|                               | No: Claims 1-10  |
| Industrial applicability (IA) | Yes: Claims 1-10 |
|                               | No: Claims       |

**2. Citations and explanations**  
**see separate sheet**

**VI. Certain documents cited**

**1. Certain published documents (Rule 70.10)**

and / or

**2. Non-written disclosures (Rule 70.9)**

**see separate sheet**

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:  
**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:  
**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/US00/17635

Reference is made to the following documents:

D1: WO 96 03970 A (WITCO CORP) 15 February 1996

D2: WO 99 24008 A (DULAK MICHAEL ;KAUFMAN STACY R) 20 May 1999

D3: WO 00 00172 A (PROCTER & GAMBLE (US)) 6 January 2000

- V. The subject-matter of the present claims is neither new nor involves an inventive step, in contrast to Article 33(1) to (3) PCT.
1. Present claim 1 claims a cosmetic method applying a composition comprising a quaternary ammonium agent and a humectant to the skin followed by rinsing the skin.
  2. Respective methods are already known from D2.  
D2 discloses compositions (examples 1 to 5) which comprise a quat and propylene glycol. According to page 14, lines 15 to 18, the composition is rinsed off after applying it to the skin.
  3. The present application is directed to the problem of providing a method which provides skin benefits without showing negatives such as greasiness, stickiness or tackiness. The problem can be overcome by a method as defined in claim 1.  
It is submitted that the problem, if there is any, only can be solved when a considerable amount of quats is present. However, the application even includes methods wherein the compositions comprise solely minor amounts. The subject-matter of the claims thus cannot be regarded as inventive within the entire scope of the claims.

Moreover, a huge number of cosmetic products comprise cationic surfactants/emulsifiers, which are generally quaternary ammonium compounds. Furthermore, humectants are also well known as a conventional additive for skin care products, see D1 and D2. It is common practice that a skin care composition is rinsed off after its application. It is submitted that there are no time limits for the rinse off step. Even if the composition was applied in the morning and is rinsed off in the evening, this would be within the scope of the claims.

In addition, cationic surfactants (quats) are well known to be suitable as

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US00/17635

emulsifiers in cosmetic composition. The skilled man would therefore expect that they can also emulsify humectants in order to improve their delivery benefits to the skin. It is furthermore well known that excess amounts of compositions can be rinsed off the skin, thereby reducing negative effects like greasiness.

Applicants did not show that there is any unexpected advantage by applying the claimed method. Nevertheless, even if there was such an advantage, an inventive step could not be acknowledged, since the combination of the known compositions and the sequence of applying and rinsing would appear to be very obvious.

4. The subject-matter of the dependent claims is either already known from D1 to D2 or at least obvious to those skilled in the art.

VI. Certain published documents (Rule 70.10)

| Application No<br>Patent No | Publication date<br>(day/month/year) | Filing date<br>(day/month/year) | Priority date (valid claim)<br>(day/month/year) |
|-----------------------------|--------------------------------------|---------------------------------|---|
| WO-A-00/00172(D3)           | 06.01.2000                           | 29.06.1999                      | 29.06.1998                                      |

D3 may become relevant during the regional/national phase of the procedure since it discloses a method of conditioning the hair and thus the scalp using a composition comprising a quat and a humectant followed by a rinse step.

VII.

1. Compounds of formulae (IV), (V), and (VIII) on pages 11 and 12, respectively, do not reflect ammonium compounds.
2. Obviously the names of the compounds on page 15 are not correct. Apparently these compounds should be regarded as "esterquats". However, e.g. the term "canolyl-oxy" reflects an alkyloxy group rather than an acyloxy (ester) group.
3. The documents EP-A-789 076 and US-A-5880289 cited on pages 2 and 36, respectively, are apparently not directed to the field of cosmetics or to a related technical field.

VIII. The vague and imprecise statement in the description on page 26 "spirit of the

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/US00/17635

invention" implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them (see also the PCT Guidelines, III-4.3a).



# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

|   |   |  |
|---|---|--|
| Applicant's or agent's file reference<br><b>CM2334/2B</b>       | <b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below. |  |
| International application No.<br><b>PCT/US 00/ 17635</b>        | International filing date (day/month/year)<br><b>27/06/2000</b>   | (Earliest) Priority Date (day/month/year)<br><b>28/06/1999</b> |
| Applicant<br><br><b>THE PROCTER &amp; GAMBLE COMPANY et al.</b> |   |  |

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 3 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the report**

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☐ **Certain claims were found unsearchable** (See Box I).

3. ☐ **Unity of invention is lacking** (see Box II).

4. With regard to the **title**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

☐ None of the figures.

## INTERNATIONAL SEARCH REPORT

Int. Application No.

PCT/US 00/17635

## A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61K7/50

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages  | Relevant to claim No. |
|------------|---|-----------------------|
| X          | WO 96 03970 A (WITCO CORP)<br>15 February 1996 (1996-02-15)<br>page 11, line 15 - line 17<br>page 15, line 14 - line 27<br>page 19, line 14 - line 16<br>claims 12-22 | 1-3,5,7               |
| X          | WO 99 24008 A (DULAK MICHAEL ;KAUFMAN<br>STACY R (US)) 20 May 1999 (1999-05-20)<br>page 14, line 6<br>page 14, line 16 - line 18<br>examples<br>claim 20              | 1,2,5-7               |
|            | ---<br>-/--<br>---  |                       |



Further documents are listed in the continuation of box C.



Patent family members are listed in annex.

## \* Special categories of cited documents:

- \*A\* document defining the general state of the art which is not considered to be of particular relevance
- \*E\* earlier document but published on or after the international filing date
- \*L\* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- \*O\* document referring to an oral disclosure, use, exhibition or other means
- \*P\* document published prior to the international filing date but later than the priority date claimed

- \*T\* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- \*X\* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- \*Y\* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- \*G\* document member of the same patent family

Date of the actual completion of the international search

19 October 2000

Date of mailing of the international search report

07/11/2000

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2  
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Authorized officer

Pelli Wablat, B

## INTERNATIONAL SEARCH REPORT

Inte Application No

PCT/US 00/17635

## C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages   | Relevant to claim No. |
|------------|--|-----------------------|
| P, X       | WO 00 00172 A (PROCTER & GAMBLE (US))<br>6 January 2000 (2000-01-06)<br>page 22, paragraph 3<br>page 25, last paragraph<br>claims<br>----- | 1-3, 7, 10            |

## INTERNATIONAL SEARCH REPORT

Information on patent family members

In Application No

PCT/US 00/17635

| Patent document<br>cited in search report |   | Publication<br>date | Patent family<br>member(s) | Publication<br>date |
|---|---|---------------------|----------------------------|---------------------|
| WO 9603970                                | A | 15-02-1996          | US 5552137 A               | 03-09-1996          |
|   |   |                     | AU 689940 B                | 09-04-1998          |
|   |   |                     | AU 3214495 A               | 04-03-1996          |
|   |   |                     | BR 9508862 A               | 16-09-1997          |
|   |   |                     | CA 2196803 A               | 15-02-1996          |
|   |   |                     | CN 1158560 A               | 03-09-1997          |
|   |   |                     | EP 0767653 A               | 16-04-1997          |
|   |   |                     | JP 10506882 T              | 07-07-1998          |
|   |   |                     | US 5610187 A               | 11-03-1997          |
| WO 9924008                                | A | 20-05-1999          | US 6043204 A               | 28-03-2000          |
|   |   |                     | AU 1310799 A               | 31-05-1999          |
|   |   |                     | EP 0983044 A               | 08-03-2000          |
| WO 0000172                                | A | 06-01-2000          | WO 0000169 A               | 06-01-2000          |
|   |   |                     | AU 4843999 A               | 17-01-2000          |
|   |   |                     | AU 8383198 A               | 17-01-2000          |